

**Municipal Review Committee Meeting Minutes of November 21, 2005**

**Attendance:** Matt Balling, MRC Chairman                      Paul Shear, MRC Member  
Richard Bigler, MRC Member                      Richard McNamara, MRC Member  
John Moulin, MRC Member                      Lisa Bertino-Beaser, MRC Member  
Jim Callahan, MRC Member                      Louis Depowski, MRC Member  
William Schutt of William Schutt and Associates.  
Jim Hartz, Asst. Director of Community Development  
Mark Mussachio of Mussachio Architects  
Neil Kochis of William Schutt and Associates  
Guy Berberich of Greiner Road Associates  
Kevin Crotty of Greiner Road Associates  
Frank Wailand of F. J. Wailand Associates  
Mark Zografos, president and owner of Italian Marble & Granite Co.  
Gary Wright, 5400 Old Goodrich Road

**Agenda Item #1 - Approval of Minutes**

**ACTION:** Motion made by Matt Balling, seconded by Richard McNamara to approve the minutes from the September 19, 2005 meeting.

**VOTING:** Ayes: ALL    MOTION PASSED

**ACTION:** Motion made by Matt Balling, seconded by Paul Shear to approve the minutes from the October 17, 2005 meeting.

**VOTING:** Ayes: ALL    MOTION PASSED

**Agenda Item #2 - Communications:**

Matt Balling advised there are no communications at this time. The communications are all project-related and they will be discussed as the individual projects are discussed.

**Agenda Item #3 - Unfinished Business:**

**Agenda Item #3.a. – Casilio Office Building, 8755 Sheridan Drive**

Matt Balling advised that, since the last time the Municipal Review Committee met, the MRC asked the project sponsor to provide the Town with an archeological study. The MRC also asked the Town to provide a follow-up on the presence of Northern Tansy Mustard on the site. The MRC is aware that the applicant has provided information on

both the aforementioned items and the findings of both indicate no significant impact upon them. The archeological study showed an old encampment. The Earth Dimensions study indicated no presence of Northern Tansy Mustard either.

The final item that the MRC was concerned with was the overall size of the building. It is not a permitted use, it is allowed by special use because of the size of the building itself. There are two courses of action that the Town could take on this matter. The first one would be to recommend a Positive Declaration and that an environmental impact statement be prepared that would document how the buffer between the project and the residence would be properly designed in order to eliminate it visually from the backyard of the neighboring residents. The MRC would like to see this document regardless. The other course of action that could be taken is to offer a Negative Declaration and ask the applicant to pursue a remedy for that particular environmental impact. The next step to this project is to prepare preliminary design drawings, and the MRC believes that this course of action is absolutely appropriate.

SEQR requires the MRC to study the environmental impacts based on information that is in front of the committee. This information shows a site plan that has a buffer which meets the Zoning requirement and can be used as the mitigating measure to address the visual impact. It is the Town's expectation that the applicant will accomplish this while working with the Planning Board. The MRC has identified potentially large impacts in the Part II and Part III that are drafts. The committee believes they can be mitigated. Based on this information the MRC is looking to re-affirm the recommendation of a Negative Declaration to the Town Board.

**ACTION:** Motion by Matt Balling, seconded by Paul Shear, to recommend a Negative Declaration.

**VOTING:** Ayes: Balling, Depowski, Moulin, Shear, Bigler  
Nays: McNamara  
Abstain: Bertino-Beaser

**MOTION PASSED**

### **Agenda Item #3.b. – Stage and Schurr Subdivision**

Matt Balling spoke with the applicant on Friday November 18, 2005 and consulted with the Planning and Zoning Department. It has been requested that this item be TABLED because the applicant does not have a final draft of their Archeological Study.

**ACTION:** Motion by Matt Balling, seconded by Richard McNamara, to **TABLE** this agenda item pending the archeological study.

**VOTING:** Ayes: ALL

**MOTION PASSED**

**Agenda Item #3.c. – Lakeside Industrial Business Park**

Matt Balling advises that the MRC has identified, requested and solicited for Lead Agency status as a Town. The Town Board has sent out letters to that effect and has asked for comments. According to letters received from the engineering and the land surveying company representing the property owner, it is apparent that a discussion occurred between Erie County Department of Environment and Planning in regards to water and sewer access. The findings in the letter advise that there are no issues regarding water access, but there needs to be a review for sewer access. The DEC indicated some significant concerns regarding the sanitary water disposal. In particular, the fact that it is going to be an eleven-lot industrial park with remaining sod operation going on around it, that being an inappropriate use for on-site septic systems, this should be investigated further.

William Schutt, of William Schutt and Associates is present and is representing the applicant. He refers to a letter written by Steve Doleski of the New York State Department of Environmental Conservation. The letter addresses the concerns of the septic system. Since that letter, Mr. Schutt has had several conversations with Steve Doleski and Mr. Schutt is under the impression that a letter will be issued to rescind the previous letter. They have been successful in answering all the questions with respect to the use of the property for septic systems. Mr. Schutt has been advised that this letter was drafted and is currently awaiting a signature from Steve Doleski. The entire issue came with respect to the DEC's misinterpretation of industrial uses. Mr. Schutt clarifies that this project is not for heavy industrial use. He advises that the DEC has absolutely no objections to this project going forward on individual septic systems and he is confident that a letter to this effect will be received as early as tomorrow, Tuesday, November 22, 2005.

Matt Balling clarified that the DEC does NOT have any objections to the Town being Lead Agency with regards to this project. He was not aware of the fact that the DEC does not feel that the sanitary sewer issue is not a significant impact. He tended to concur with the fact that there is going to be an eleven-lot industrial park with no sanitary sewer service to it. There is a potential there, regardless of the use, of ground water contamination.

Mr. Schutt advises that each one would be designed in accordance with either the Erie County Health Department standards or the DEC standards based on the anticipated amount of flow. The uses of these lots are going to be the exact same uses that are occurring right now in the Industrial Zone areas of the Town, uses that are similar to a warehousing type nature.

Matt Balling asks Mr. Schutt if this project site is traverse by any protected stream or any other sensitive environmental feature that he is aware of. Mr. Schutt replies, "No".

Jim Hartz brings attention to a similar project that is taking place currently. The Kelkenberg Industrial Park is a six-lot industrial park that is now full of small offices and attached warehouses. Mr. Schutt advises that his clients only want to build the infrastructure and then be able to sub-divide the property and sell the lots. As those lots are sold and the purchaser wants to come in with a particular project they will come back to the Town and submit site plans, SEQR documents, etc. This process will take place, essentially, eleven times, more or less, for each one of the lots as they are developed.

Matt Balling advises that the traffic circulation is another impact that concerns him. Currently, the proposed eleven lots end on a dead-end road, which, he presumes, will be dedicated to the Town. Matt Balling would like to see, in the future, a road connection from the east and west of the project site. The roads east and west of the site are Heise and Goodrich Roads. Mr. Schutt advises that they do not own any property on Heise Road, therefore will never have an exit there. Braddel's existing facility is on Goodrich Road and they have every intention to maintain that existing facility. This takes up a significant part of the Goodrich Road frontage. The sight distance would be poor if there was a road put between this area and the intersection at County Road. The current plan shows 2 exits on to County Road.

Matt Balling indicates the documentation that the Town has shows that all of the environmental issues that would be related to the eleven lots and the new dead-end road would be addressed. The MRC has information from the National Heritage Program on the presence of endangered birds. There are individual septic systems to be installed, which will address sanitary sewer. There aren't any protective waterways in the vicinity of the project that would need to be addressed.

**ACTION:** Motion by Matt Balling, seconded by Richard Bigler, to recommend a Negative Declaration and direct the Planning and Zoning Department to prepare a Part II accordingly.

**VOTING:** Ayes: ALL  
Nays: None

**MOTION PASSED**

**Agenda Item #3.d. – David DeMarie Dance Studio, 8965 Sheridan Drive**

Matt Balling advises that the Town solicited for Lead Agency status and asked for comments back from involved agencies. The Town did not receive any comments from state or federal agencies indicating any significant or potentially large impacts in regards to this project.

The materials that the Town has on this project currently document a detention basin and an injection well. The site plan does not show an injection well. In order for the MRC to say, "Storm water won't be significant or have a potentially large impact" the

committee needs to have the information in front of them showing that this is being mitigated.

Mark Mussachio of Mussachio Architects speaks to the subject. The injection wells are going to occur in the detention area. They are designed to go into the ground and discharge into the earth. There is no storm water purification required in that type of DEC discharge of the water, therefore the detention physically purifies it and discharges it off-site. The applicant does not have a discharge to a storm water system in this area; therefore this is the only possible, feasible way to discharge the water. It is not uncommon and is done quite often in the Town of Clarence. Matt Balling asks exactly where, on the site, are the injections wells going to be located. Mr. Schutt advises they will be in basically the same area where the detention was identified. Matt Balling asks for a written explanation on the detention basin and the injection wells, as was previously explained, this will be kept on file. The applicant will provide the documentation.

**ACTION:** Motion by Louis Depowski , seconded by John Moulin, to recommend the Town Board issue a Negative Declaration.

**VOTING:** Ayes: ALL

**MOTION PASSED**

**Agenda Item #4 – New Business**

**Agenda Item #4.a. – Greiner Road Associates, 8955 Roll Road**

The applicant has submitted a Concept Plan to the Planning Board; they have completed Part One of the Environmental Assessment Form. The Planning Board had issues regarding lot sizes on the first plan. They have addressed this issue. The Planning Board also had a concern regarding the existing tree canopy and what the applicant was going to do to protect that. A tree survey was being considered. Neil Kochis of William Schutt and Associates speaks to this issue. He advises that the Planning Board requested a tree survey identifying the trees on the site and/or areas that would be preserved so that every tree would not have to be identified. The heavily wooded area to the west of the site, along the creek corridor, would be preserved. This will also provide a buffer between the site and the houses on Shimerville.

Matt Balling indicates that this site abuts a tributary of a protected stream under the DEC's classifications. The creek along the property line eventually makes it's way to Gott Creek. Therefore, Part Two of the Environmental Assessment Form should identify this information. The creek also poses a potentially large impact because it is a tributary of Gott Creek. It should also be stated in the Part Three that a buffer is being put in along that property line as a mitigating measure to protect that tributary from storm water run-off and the potential for septic disposal.

**ACTION:** Motion by Matt Balling, seconded by Richard Bigler, that under Part Two of the Environmental Assessment Form, impacts on water, a tributary to Gott Creek is in the project site and it be indicated as a potentially large impact.

**VOTING:** Ayes: ALL **MOTION PASSED**

**ACTION:** Motion by Matt Balling, seconded by Lisa Bertino-Beaser, that under the Part Three of the Environmental Assessment Form the green space buffer be identifying as one of the mitigating measures being undertaken by that applicant to address that tributary. Also identify that the process with DEC will include water quality treatment of storm water discharge

**VOTING:** Ayes: ALL **MOTION PASSED**

A third item on this project is the overall recommendation of the Town Board and based on the design of the project Matt Balling sees no further significant impacts.

**ACTION:** Motion by Matt Balling, seconded by Louis Depowski, to recommend a Negative Declaration.

**VOTING:** Ayes: ALL **MOTION PASSED**

#### **Agenda Item #4.b. – Italian Marble and Granite, East of 8520 Roll Road**

The applicant is present. Frank Wailand of F. J. Wailand Associates represents the applicant and introduces Mark Zografos, president and owner of Italian Marble and Granite Company. Mr. Wailand speaks to the subject. Mr. Zografos currently has a location in Elma and is looking to relocate in Clarence. This is a 3.14-acre parcel of land on the north side of Roll Road, just east of Harris Hill Road. It is a 20,000 square foot structure. It will have a showroom in the front building and a warehouse in the back for the granites and marble that he deals with. His business is producing decorative tabletops/countertops.

There will be some traffic in the showroom, possibly two cars a day. A detention basin that will be in the southeast corner of the property will handle all the drainage. There is a small line that will discharge the water into a stream ditch. All the calculations regarding the drainage have been submitted. The MRC has not seen these calculations. Matt Balling advises the MRC will need to review these calculations.

Mr. Wailand advises this is a very clean business, they cut marble and granite. It's done with a very high-pressure water system and creates a "slurry" of marble dust or granite dust, with water, which goes into two-thousand gallon "slurry" tanks. The tanks are located inside the building and act as a separator. All the material settles on the bottom of the tanks. Once or twice a year the tanks are pumped out, the water will be

discharged from the building at that point. There are no chemicals involved. Matt Balling asks if this information is documented for the engineering department. Mr. Zografos advises that the water is recycled. The catch basins have pumps in them. The machinery actually uses recycled water, so once the tanks are initially filled, the saws and other equipment are running on recycled water. If fresh water were used for everything, it would be a phenomenal amount of water that the applicant would be going through. Matt Balling asks if the machinery is self-contained to these machines so that none of that drain water finds its way out of the building. Mr. Zografos advises that the drain water keeps going back into the tanks. The primary tank catches all the sediment, the secondary tank has the recycling system within it. What little overflow there may be from the second tank could be discharged out. This is the system that is used at the current location and has been checked and is in compliance with all State Regulations.

Matt Balling speaks to the on-site drainage subject. The storm water is going to come off the building gutters and off your paved surfaces and into a ditch, which flows off-site. Mr. Wailand advises they were going to do a retention basin initially, there is going to be a reducer. The MRC does not have this information in front of them.

Paul Shear asks if they are using water-jet cutting, saws and polishing machines. All of these machines are in the facility. A water-jet system uses fresh water, not recycled water. Mr. Zografos explains that the water-jet water has its own tank, the machine itself has its own tank. The "slurring" is kept in that tank, then goes into the overflow which goes into the drainage that is inside the shop which goes into the other tank. So the water is actually caught twice. The tank from the water-jet is actually pumped out twice a year once it fills up. What fills up in that tank is generally the garnet, which is the fine aggregate sand that is used in the cutting process. Paul Shear rehashes the procedure for clarification: the abrasive is added to the water through the water-jet and then the water will be recycled for the saws, not the water-jet. The water-jet runs approximately three times a day, it is not used for cutting counter tops on everything that's on a "straight run", for example. The water-jet is an expensive machine to run, it's high maintenance so consequently this machine is used for detailed work that eliminates a lot of manpower. The machine is primarily run about three hours a day. The primary cutting is done with two grit saws.

Paul Shear asks if water is being sent into ground water disposal on a daily basis. Mr. Zografos indicates that as an overflow, whatever the shop is not using, the water is being sent into a ground water disposal.

Mr. Wailand points out the water system on the plan to the MRC. Matt Balling asks if Mr. Wailand will take appropriate water quality measures to protect Gott Creek. Mr. Wailand advises he will take appropriate measures.

Matt Balling advises the next step in this process is to solicit Lead Agency status and to obtain comments from interested agencies. In order to do this, a completed Part I of the Environmental Assessment Form is required. Items number twelve and thirteen on

the form are incomplete, the MRC needs clarification on these items so they can adjust the form and the project can continue.

On page four of the Environmental Assessment Form item number twelve asks, “Is surface liquid waste disposal involved?” The answer on the form is “no”. Item number thirteen asks, “Is sub-surface liquid waste disposal involved?” There is no answer to this question on the form. Matt Balling asks if the project is on sanitary sewers. Mr. Wailand advises this is a sand-filter system. The system has been designed and registered with the Erie County Health Department. They have received preliminary approval for the system from Erie County. The MRC was not aware of this.

Matt Balling asks what the appropriate answer would be for item number thirteen on the Environmental Assessment form. In the past, the question has been interpreted as referring to a septic system. Mr. Wailand says, “If that’s the interpretation, the answer would be “yes” then.”

Paul Shear asks were will the discharged water from the areas of polishing and sawing operations go. Will that water go into the septic system or is that ground water? Mr. Wailand advises the water will be going into the detention basin, and ultimately into Gott Creek. Paul Shear suggests that the MRC will need more information with regards to this issue before the committee is prepared to make a decision.

Matt Balling suggests that there be further detailed information, either written documentation or a drawing, addressing the storm water discharge for the file.

**ACTION:** Motion by Matt Balling, seconded by John Moulin, to recommend the Town solicit Lead Agency status and send this out to interested agencies. Interested agencies should include the Department of Environmental Conservation. Along with sending Part I of the Environmental Assessment Form to the DEC, an explanation of the internal processes should accompany the form. The explanation should include processing the internal wastewater and the storm water.

**VOTING:** Ayes: ALL

**MOTION PASSED**

Mr. Wailand asks for clarification on the process from this point on. Matt Balling advises that once the MRC has all the information that is required to show that the applicant is mitigating the storm water discharge and the industrial discharge, the MRC can then recommend issuing a Negative Declaration. A Negative Declaration means the project will not have any significant impacts on the environment. So far, the MRC has not received any comments back from the DEC, DOT or anyone else. It doesn’t appear that there will be any significant comments but, “you never know.” Once comments are received from interested agencies the MRC then makes the recommendation to issue a Negative or Positive Declaration. A Positive Declaration may be issued when the materials the MRC receives are so vague that they don’t address the environmental issues that are discovered. The applicant prepares the Environmental Impact Statement; this is



the Town's way of forcing you to address the potentially large impacts. The MRC does not know all of the impacts yet, but the aforementioned would be the process. Mr. Wailand would like to expedite the approval because the applicant's lease on his current location will expire in the third quarter of 2006.

**Agenda Item #4.c. – Town Environmental Quality Review Local Law (TEQR)**

Jim Hartz explains that this arose out of the State Supreme Court ruling that the Town Board needs to be more involved with environmental reviews. This shows the link between the Town Board's decision and our environmental review process.

Matt Balling read the information on TEQR and he advises it sounds like the Town is writing SEQR. It makes a lot of reference to the New York codes, rules and regulations.

Jim Hartz advises this legislation did not come out of the Planning and Zoning office.

Matt Balling advises that the SEQR that generally follows a law like this is usually a generic town-wide long form, which the MRC has seen before. Since this local law has to be approved by the Town Board, he would recommend soliciting Lead Agency status and make sure this is sent to the DEC's office in Albany.

**ACTION:** Motion by Matt Balling, seconded by Richard Bigler, to recommend soliciting Lead Agency status on TEQR.

**VOTING:** Ayes: ALL

**MOTION PASSED**

**Agenda Item #5 – Miscellaneous**

**Agenda Item #5.a. - Adequate Public Facilities Local Law/Amendments to Master Plan 2015**

Jim Hartz advises that there will be a conference call on Wednesday, November 23, 2005 to work through some of the details in drafting the ordinance.

**ACTION:** Motion by Matt Balling, seconded by Richard McNamara, to **TABLE** the Adequate Public Facilities Local Law.

**VOTING:** Ayes: ALL

**MOTION PASSED**

**Agenda Item #5.b. – Residential Home Building Cap**

Matt Balling drafted a letter regarding his thoughts on the Residential Home Building Cap. The letter is to the Town Board indicating what action the MRC recommends to the Board. He reads the letter:

Honorable Town Board, the Municipal Review Committee has reviewed the matter above and finds a reduction in residential building would provide a positive benefit to the Town of Clarence. We believe the Residential Dwelling Building Cap, herein referred to as the CAP, represents a substantial and legitimate governmental interest based on the following findings:

1. Residential land use versus agricultural, commercial, industrial and open-space land use has a proportionately greater demand upon public infrastructure including schools, highways, sewer and local government administrative capacity.
2. The current condition of public infrastructure in the Town is considered constrained or failing. Capital improvements to correct these deficiencies will only permit a limited degree of correction and will require tax revenues to offset expenditures.
3. The infrastructure identified above is essential to protecting water and air quality, maintaining satisfactory public education, permitting safe multi-modal transportation and protecting public safety.
4. Currently funded capacity in the school, transportation, water and sewer systems should be conserved to avoid future public expenditures that require increases in real estate property tax and special district assessments.
5. Real estate property tax and special district assessments disproportionately burden low to moderate-income households.
6. Within the Town of Clarence Comprehensive Plan 2015 the Town is identified as it's preferred development pattern a combination of enhanced rate commercial and industrial development, lower density residential development, an open-space plan to preserve valuable open space in the rural character. This pattern has also been identified as the most fiscally beneficial to the Town.
7. The protection of ground water quality is a public concern and is impaired by improperly installed or failing on-site sanitary disposal "septic systems".
8. The existing proportional allotment of dividing permits subject to the CAP between units serviced by public sewers and those unserved by sewers represents a legitimate governmental interest predicated on the intent of the Federal Clean Water Act.

Based on these findings we recommend the following course of action to enhance the Residential Building Cap identified in the Town of Clarence Comprehensive Plan 2015:

1. Apply the CAP to building permits issued for all types of residential dwelling units, not just single-family homes.
2. Group homes, assisted living, senior housing or nursing homes that are constructed and intended to serve low-income elderly or disabled person should be exempted if they are constructed in walkable locations.
3. The current CAP figure of two hundred forty dwelling units should be maintained through 2005, but an incremental reduction of seven percent over the next six years would be prudent with the ultimate goal of reducing residential building rates by forty percent by 2011. This gradual reduction would allow the real estate market to adjust investments and strategies and permit the amortization of existing sewer tap agreements.
4. A proportional allotment of permits between residential units served by public sewer and those unserved should be maintained.
5. We should adopt the Residential Dwelling Building Cap as a local law to make the policy enforceable action established under Article Nine of the New York State Constitution.
6. The Town should reserve the right to adjust the CAP at anytime subject to public hearing and an environmental review.

Respectfully Submitted.

Matt Balling asks for the committee's thoughts on the letter. Paul Shear advises that he would like to further review the letter prior to making a decision as to support it or not, the other committee members agree. Matt Balling advises that the ultimate goal is to eventually get the degree of residential building down to a more reasonable rate. When drafting the figures in the letter above Matt Balling considered the proportional distribution of septic to non-septic permits coming in, how many dwelling units are going to have to be constructed to amortize the sewer agreement on average to result in ultimately reducing it overall residential building by forty percent. Further discussion ensued regarding the details of the letter.

**ACTION:** Motion by Matt Balling to forward the letter on to the Town Board. No Second.  
Motion Failed.

**ACTION:** Motion by Matt Balling, seconded by Paul Shear, to **TABLE** and suspend any further discussion on the Residential Building Cap.

**VOTING:** Ayes: ALL

**MOTION PASSED**

**Agenda Item #5.C. – Land Use Training**

Matt Balling advises distributes a Land Use Training Manual to each committee member. The training needs to be completed by July 2006. Matt Balling has not had a chance to look at the manual, he anticipates starting the training in January 2006. If any of the committee members make any progress with the training now, wait until January 2006 to advise Matt Balling. He will be maintaining a table showing what units the committee members have chosen and when they are completed. Pat Powers, of the Planning Board, is the person who “spear-headed” this training. There will be further discussion on the topic at the December 2005 meeting of the MRC. Matt advises there are 9 or 10 categories and SEQR is required. As the chapters are read there seems to be a progression.

**Agenda Item #6 – Establish next meeting date**

The MRC established their next meeting date as Monday December 19, 2005.

Richard McNamara advises that Gary Wright lives on Old Goodrich and would like to speak to the committee regarding the problems he is having with the Heise-Brookhaven sewer and the problems that he is having at his residence.

**ACTION:** Motion by Richard McNamara, seconded by Matt Balling, to allow public participation at this time.

**VOTING:** Ayes: ALL

**MOTION PASSED**

Gary Wright, of 5400 Old Goodrich Road, introduces himself and provides the MRC with a copy of correspondence that he has gathered since he encountered problems when the Heise-Brookhaven Sewage Works Corporation put the sewer through. It's been a year and a half. The first letter that Mr. Wright wrote to the Board was never addressed. He wishes the Board would have taken some action then, instead of “stone-walling” him, because it has developed into a situation far greater than water in his pond. He has a crack up the side of his house and the electrical connection that goes to his electric meter on the side of his house is pulling the meter right off the side of the house. “We’ve created the same situation here that they have in Amherst.” His next door neighbor, Reverend Walker, has similar problems. Rev. Walker’s fireplace chimney is cracked, the drywall between his fireplace and his window is buckling, he has to pull his bathroom door open, now, because it drags on the floor. Mr. Wright thought the purpose of the Boards and the Town Board was to protect the public, not to abandon them, “We’ve been abandoned here.” There is plenty of correspondence, nothing has been hidden, yet nothing has been done. His property has been devalued tremendously. Mr. Wright says, “What could I get for my house now? I have a pond in my yard that got

drained, the sides of the slopes of the pond are collapsing, now, my house is failing. What else do we have to do, have a big explosion, or something, to make them open their eyes?"

When this project went through, things were done illegal and unethical and everybody just turned a blind eye to it. He shows the MRC a piece of scrap from the pipe that was used for the sewer. In Mr. Wright's opinion, the cheapest product was used. "Who is going to face the burden of this thing when it fails?" What he is asking of the MRC is to propose to the Town Board that they stop issuing any building permits, any starts or any certificates of occupancy to protect future residents of this town within the effected area.

Matt Balling asks if the Town is currently the subject of any litigation regarding this issue. Mr. Wright advises he filed a suit and he let it "drop". Jim Hartz advises he knows that there was litigation but does not know the status.

Mr. Wright has written a letter to the State Attorney General's Office, they currently have a case that is being looked into. He's also written a letter to the Inspector General.

Mr. Wright asks what the responsibilities and duties are of the Lead Agency. Matt Balling advises the responsibility of Lead Agency is to understand all the potential environmental impacts that are known and to address them via mitigating measures.

Matt Balling advises that if anybody should be recommending a course of action to stop building, it would be the Town Engineer's Office. Mr. Wright advises the Town Engineer is doing everything to hide this.

Matt Balling suggests that the MRC can have a map done showing where this new sewer line is. The map can also show where the ponds and homes are that are being damaged by the sewer line. When the MRC reviews new projects the committee can look at that map. Perhaps the Building Dept. can help when people come in for their building permit, as well.

Jim Hartz advises that there are two projects that the Board will be looking at in December 2005, that are directly related to the Heise-Brookhaven sewer line. This will require re-opening the Supplemental EIS in order to be prepared on both projects.

**ACTION:** Motion by Matt Balling, seconded by Lisa Bertino-Beaser, to close the public participation.

**VOTING:** Ayes: ALL

**MOTION PASSED**

**ACTION:** Motion by Matt Balling, seconded by Paul Shear, to adjourn the meeting.

**VOTING:** Ayes: ALL

**MOTION PASSED**

**On the Question:**

Councilman Bylewski advises that the appointments for the Municipal Review Committee are a one-year term; therefore all terms are up at the end of 2005. Who ever is interested can either submit a letter or an e-mail to Councilman Bylewski expressing his or her interest to remain on the committee.

Just a reminder to make sure that Part II of the Environmental Assessment Form is completed when the form is submitted.

Meeting adjourned at 8:35 p.m.

Matt Balling, Chairman